



## Arlington Conservation Commission

**Date:** Thursday, August 17, 2023  
**Time:** 7:00 PM  
**Location:** Conducted by Remote Participation

Please register in advance for this meeting. Reference materials, instructions, and access information for this specific meeting will be available 48 hours prior to the meeting on the Commission's agenda and minutes page. Pursuant to State Legislation suspending certain provisions of the Open Meeting Law, G. L. c. 30A, § 20 relating to the COVID-19 emergency, the August 17, 2023, public meeting of the Arlington Conservation Commission shall be physically closed to the public to avoid group congregation. The meeting shall instead be held virtually using Zoom. Please note: Not all items listed may in fact be discussed and other items not listed may be brought up for discussion to the extent permitted by law. This agenda includes those matters which can be reasonably anticipated to be discussed at the meeting.

### Agenda

1. Administrative
  - a. Meeting Minutes.
  - b. Correspondence Received.  
All correspondence is available to the public. For a full list, contact the Conservation Agent at [concomm@town.arlington.ma.us](mailto:concomm@town.arlington.ma.us).
2. Discussion
  - a. Enforcement Order: 65 Dudley Street.
  - b. Request for Certificate of Compliance: 70 Medford Street (Mt. Pleasant Cemetery Columbarium).
  - c. FY25 Capital Planning.
  - d. Water Bodies Working Group
  - e. Park & Recreation Commission Liaison

3. Hearings

**Request for Permit Extension: 88 Coolidge Road.**

Request for Permit Extension: 88 Coolidge Road.

This public hearing will consider a permit extension to an Order of Conditions for construction of a new house at 88 Coolidge Road in the Buffer Zone to a Bordering Vegetated Wetland.



## Town of Arlington, Massachusetts

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### Correspondence Received.

#### Summary:

Correspondence Received.

All correspondence is available to the public. For a full list, contact the Conservation Agent at [concomm@town.arlington.ma.us](mailto:concomm@town.arlington.ma.us).

#### ATTACHMENTS:

	Type	File Name	Description
▢	Reference Material	Correspondence_Received_re_Tree_in_Mill_Brook.pdf	Correspondence Received re Tree in Mill Brook
▢	Reference Material	Correspondence_Received_re_Trees_at_16_Forest.pdf	Correspondence Received re Trees at 16 Forest

## Re: Land steward report - Re: Tree in Mill Brook

David Morgan <[dmorgan@town.arlington.ma.us](mailto:dmorgan@town.arlington.ma.us)>

Mon 8/7/2023 9:56 AM

To: Cybille MacDonald <[cybille.macdonald@gmail.com](mailto:cybille.macdonald@gmail.com)>

Cc: Chuck Tirone <[ctirone@ci.reading.ma.us](mailto:ctirone@ci.reading.ma.us)>; Susan Chapnick <[s.chapnick@comcast.net](mailto:s.chapnick@comcast.net)>; ConComm <[ConComm@town.arlington.ma.us](mailto:ConComm@town.arlington.ma.us)>

Thanks, Cybille. The rocks and stump don't rise to the level of critical concern for me. It would take a flood of significant size to dislodge them, and should that happen it would be a crisis that'd eclipse any concerns we might have about the stability of the banks at this location.

Cheers,  
David

David Morgan | Environmental Planner + Conservation Agent | Department of Planning and Community Development | 781.316.3012

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**From:** Cybille MacDonald <[cybille.macdonald@gmail.com](mailto:cybille.macdonald@gmail.com)>

**Sent:** Monday, August 7, 2023 9:48 AM

**To:** David Morgan <[dmorgan@town.arlington.ma.us](mailto:dmorgan@town.arlington.ma.us)>

**Cc:** Chuck Tirone <[ctirone@ci.reading.ma.us](mailto:ctirone@ci.reading.ma.us)>; Susan Chapnick <[s.chapnick@comcast.net](mailto:s.chapnick@comcast.net)>; ConComm <[ConComm@town.arlington.ma.us](mailto:ConComm@town.arlington.ma.us)>

**Subject:** Re: Land steward report - Re: Tree in Mill Brook

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hi Concom,

Please see 4 photos post removal of trees on both sides of the banks. My concern is the heavy rains; there is nothing to anchor soil in these areas from sliding. The rocks were never stabilized and the downed tree felled the trees above rocks. Also the stump is not stable from the fence/pavement side above the stump. The pavement is eroded and drainage /erosion might cause instability since the roots pulled out from the sidewalk? Not my area of expertise but a concern nonetheless.  
Cybille

On Mon, Aug 7, 2023 at 9:23 AM David Morgan <[dmorgan@town.arlington.ma.us](mailto:dmorgan@town.arlington.ma.us)> wrote:

Hi all,

I was just writing an email saying the same as Chuck. Any erosion on that slope is likely to be superficial, as the knotweed and tree roots are still in place. If we see anything significant develop, which I think is unlikely, we can consider an erosion control blanket, but for now I'm of the opinion that it's sufficiently stable.

Cheers,  
David

David Morgan | Environmental Planner + Conservation Agent | Department of Planning and Community Development | 781.316.3012

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**From:** Tirone, Charles <[ctirone@ci.reading.ma.us](mailto:ctirone@ci.reading.ma.us)>

**Sent:** Monday, August 7, 2023 9:21 AM

**To:** Susan Chapnick <[s.chapnick@comcast.net](mailto:s.chapnick@comcast.net)>; David Morgan <[dmorgan@town.arlington.ma.us](mailto:dmorgan@town.arlington.ma.us)>; Cybille MacDonald <[cybille.macdonald@gmail.com](mailto:cybille.macdonald@gmail.com)>

**Cc:** ConComm <[ConComm@town.arlington.ma.us](mailto:ConComm@town.arlington.ma.us)>

**Subject:** RE: Land steward report - Re: Tree in Mill Brook

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Good morning David,

From the photos I didn't see any exposed soil and in the root ball is still in place with plenty of bio matter to shield the slope from raindrops so the request for erosion control might be unnecessary. That being said, with the slope being quite steep if you decide erosion control is needed just make sure it's securely staked in place and discuss a plan for removing it once whatever you're looking for is established on the bank.

Chuck Tirone  
Conservation Administrator  
16 Lowell Street  
Reading, Ma 01867  
p: 781-942-6616  
f: 781-942-9071

[ctirone@ci.reading.ma.us](mailto:ctirone@ci.reading.ma.us)

**Town Hall is closed on Friday**

Office Hours: Mon- Wed - Thurs 8:00 - 5:30

Tuesday 8:00- 7:00

**From:** Susan D. Chapnick <[s.chapnick@comcast.net](mailto:s.chapnick@comcast.net)>

**Sent:** Friday, August 4, 2023 10:05 AM

**To:** David Morgan <[dmorgan@town.arlington.ma.us](mailto:dmorgan@town.arlington.ma.us)>; Cybille MacDonald <[cybille.macdonald@gmail.com](mailto:cybille.macdonald@gmail.com)>

**Cc:** Tirone, Charles <[ctirone@ci.reading.ma.us](mailto:ctirone@ci.reading.ma.us)>; ConComm <[ConComm@town.arlington.ma.us](mailto:ConComm@town.arlington.ma.us)>

**Subject:** Re: Land steward report - Re: Tree in Mill Brook

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Thanks, David, for doing the site visit and this update. What is your opinion of the bank stability in that location?

Susan

On 08/04/2023 9:40 AM EDT David Morgan <[dmorgan@town.arlington.ma.us](mailto:dmorgan@town.arlington.ma.us)> wrote:

All,

I was on site this morning during the tree removal. I took [two photos](#), one of the stump and one of the area where the tree fell. The area opposite had been cleared of the knotweed that's usually there. Partway down the embankment, there was a stump of a ~7" tree that had been freshly cut, presumably because the bigger tree had fallen on it. On the opposite side, there was minimal sawdust from the removal and no debris that caused me concern. It's a surprise that the work happened sooner than expected, but it otherwise seems to have gone as we requested.

Cheers,  
David

David Morgan | Environmental Planner + Conservation Agent | Department of Planning and Community Development | 781.316.3012

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**From:** David Morgan <[dmorgan@town.arlington.ma.us](mailto:dmorgan@town.arlington.ma.us)>  
**Sent:** Friday, August 4, 2023 9:10 AM  
**To:** Cybille MacDonald <[cybille.macdonald@gmail.com](mailto:cybille.macdonald@gmail.com)>  
**Cc:** Chuck Tirone <[ctirone@ci.reading.ma.us](mailto:ctirone@ci.reading.ma.us)>; Susan Chapnick <[s.chapnick@comcast.net](mailto:s.chapnick@comcast.net)>; ConComm <[ConComm@town.arlington.ma.us](mailto:ConComm@town.arlington.ma.us)>  
**Subject:** Re: Land steward report - Re: Tree in Mill Brook

Thanks, Cybille, I'll have a look today.

Cheers,  
David

David Morgan | Environmental Planner + Conservation Agent | Department of Planning and Community Development | 781.316.3012

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**From:** Cybille MacDonald <[cybille.macdonald@gmail.com](mailto:cybille.macdonald@gmail.com)>  
**Sent:** Friday, August 4, 2023 12:19 AM  
**To:** David Morgan <[dmorgan@town.arlington.ma.us](mailto:dmorgan@town.arlington.ma.us)>  
**Cc:** Chuck Tirone <[ctirone@ci.reading.ma.us](mailto:ctirone@ci.reading.ma.us)>; Susan Chapnick

<[s.chapnick@comcast.net](mailto:s.chapnick@comcast.net)>; ConComm <[ConComm@town.arlington.ma.us](mailto:ConComm@town.arlington.ma.us)>

**Subject:** Land steward report - Re: Tree in Mill Brook

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Hi David,

Just wanted to follow up since attending tonight's Concom meeting. Millbrook residents received written notice dated Wednesday 8/2 that Brightview landscaping was coming next week 8/8 & 8/9. However when I got home today I heard chainsaws coming from the backyard area. Nighttime inspection showed the tree is removed. The uprooted tree stump is still here and logs (cut up branches?) were dropped onto the ravine side close the footpath/parking lot. Debris might be in the water. Hard to see at night. I have before and after photos of the tree and patio demolition of the pavement (which might have caused the tree root instability?).

Please click on this link for my [Google photo album - tree 2023](#) concentrating on the 2023 tree which fell in brook - before and after photos highlighting the patio demolition as possible source of tree distress. If you click on the individual photo, I put timestamp date and captions when needed for clarification.

I have a master photo album since 2020 of all activity around Millbrook showing landlord bad faith, including shopping carts in water, dumping into brook, salt on walkways near water, invasive weed removal dumped into water, trash, degradation of wooden stairs, people in tunnel culvert area, vandalism, etc. Please let me know if you want me to organize this for Concom.

Thank you for allowing me to be of service,

Cybille MacDonald  
Millbrook Land Steward

On Wed, Aug 2, 2023 at 11:51 AM David Morgan <[dmorgan@town.arlington.ma.us](mailto:dmorgan@town.arlington.ma.us)> wrote:

Thank you, Soma! I'm copying the ConCom chairs so they're aware.

Lauren and Lyle, if you'll be overseeing the work, please make sure care is taken to keep debris from entering the brook during the removal.

Cheers,  
David

David Morgan | Environmental Planner + Conservation Agent | Department of Planning and Community Development | 781.316.3012  
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**From:** Zangiband, Soma <[szangiband@cjmanagement.com](mailto:szangiband@cjmanagement.com)>  
**Sent:** Wednesday, August 2, 2023 11:45 AM  
**To:** David Morgan <[dmorgan@town.arlington.ma.us](mailto:dmorgan@town.arlington.ma.us)>  
**Subject:** RE: Tree in Mill Brook

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

*Hi David,*

*It is scheduled for August 8<sup>th</sup> and 9<sup>th</sup> to be removed. BrightView will be using their equipment to have it removed same as the other trees they removed in the past.*

Regards,

Soma Zangiband

Property Manager  
Millbrook Square Apartments  
17 Mill Street  
Arlington, MA 02476  
Phone 781-641-1723  
Fax 781-641-3030

---

**From:** David Morgan <[dmorgan@town.arlington.ma.us](mailto:dmorgan@town.arlington.ma.us)>  
**Sent:** Wednesday, August 2, 2023 11:42 AM  
**To:** Zangiband, Soma <[szangiband@cjmanagement.com](mailto:szangiband@cjmanagement.com)>; O'Rourke, Karen <[korourke@cjmanagement.com](mailto:korourke@cjmanagement.com)>  
**Subject:** Re: Tree in Mill Brook

Hi Soma,

I'm following up to see whether there is a plan to address the tree that fell last month. Any news?

Cheers,  
David

David Morgan | Environmental Planner + Conservation Agent | Department of Planning and Community Development | 781.316.3012  
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**From:** Zangiband, Soma <[szangiband@cjmanagement.com](mailto:szangiband@cjmanagement.com)>  
**Sent:** Friday, July 7, 2023 11:02 AM  
**To:** David Morgan <[dmorgan@town.arlington.ma.us](mailto:dmorgan@town.arlington.ma.us)>; O'Rourke, Karen  
<[korourke@cjmanagement.com](mailto:korourke@cjmanagement.com)>  
**Subject:** Re: Tree in Mill Brook

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Hi David ,

It happened on July 4th. I have contractor coming on Monday to do the removal. I can update you later today how they plan on removing it.

## Soma Zangiband

Property Manager  
Millbrook Square Apartments  
17 Mill Street  
Arlington, MA 02476  
Phone 781-641-1723  
Fax 781-641-3030

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**From:** David Morgan <[dmorgan@town.arlington.ma.us](mailto:dmorgan@town.arlington.ma.us)>  
**Sent:** Friday, July 7, 2023 9:58 AM  
**To:** Zangiband, Soma <[szangiband@cjmanagement.com](mailto:szangiband@cjmanagement.com)>; O'Rourke, Karen  
<[korourke@cjmanagement.com](mailto:korourke@cjmanagement.com)>  
**Subject:** Tree in Mill Brook

Hi Soma,

I understand sometime in the past week a tree fell from your property and got lodged in the Mill Brook channel. Could you please let me know what the plans are to remove it?

Cheers,  
David

David Morgan | Environmental Planner + Conservation Agent | Department of Planning and Community Development | 781.316.3012

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## Re: Removing recently planted trees

David Morgan <[dmorgan@town.arlington.ma.us](mailto:dmorgan@town.arlington.ma.us)>

Thu 8/10/2023 1:49 PM

To: Dávid Guszejnov <[guszejnov.david@gmail.com](mailto:guszejnov.david@gmail.com)>

Cc: Chuck Tirone <[ctirone@ci.reading.ma.us](mailto:ctirone@ci.reading.ma.us)>; Susan Chapnick <[s.chapnick@comcast.net](mailto:s.chapnick@comcast.net)>

Thanks for these details, David. I'll connect with the Commission chairs and discuss how to proceed.

Cheers,  
David

David Morgan | Environmental Planner + Conservation Agent | Department of Planning and Community Development | 781.316.3012

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---

**From:** Dávid Guszejnov <[guszejnov.david@gmail.com](mailto:guszejnov.david@gmail.com)>

**Sent:** Thursday, August 10, 2023 1:24 PM

**To:** David Morgan <[dmorgan@town.arlington.ma.us](mailto:dmorgan@town.arlington.ma.us)>

**Cc:** Chuck Tirone <[ctirone@ci.reading.ma.us](mailto:ctirone@ci.reading.ma.us)>; Susan Chapnick <[s.chapnick@comcast.net](mailto:s.chapnick@comcast.net)>

**Subject:** Re: Removing recently planted trees

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hi David,

Thanks for getting back to me so quickly.

There are two slender silhouette sweetgum trees 7 and 9 ft from the foundation, one on each side of the house. As I understand it these have aggressive root systems and the trees can grow 50 ft tall. There is also a quercus palustris oak on the right side, about 8 ft from the house, which can grow to be more than 50 ft tall 20-30 ft wide, so it will eventually threaten the house itself.

Best,  
David

On Thu, Aug 10, 2023 at 1:03 PM David Morgan <[dmorgan@town.arlington.ma.us](mailto:dmorgan@town.arlington.ma.us)> wrote:

Hi David,

Thanks for inquiring. Yes, the plantings were required as part of the permitting process. They were installed as mitigation for the impervious surface added by the redevelopment.

Can you please tell me how far the trees are from the foundation of the building?

Cheers,  
David

David Morgan | Environmental Planner + Conservation Agent | Department of Planning and Community Development | 781.316.3012

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**From:** Dávid Guszejnov <[guszejnov.david@gmail.com](mailto:guszejnov.david@gmail.com)>

**Sent:** Thursday, August 10, 2023 12:18 PM

**To:** ConComm <[ConComm@town.arlington.ma.us](mailto:ConComm@town.arlington.ma.us)>

**Subject:** Removing recently planted trees

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Arlington Conservation Commission,

I have purchased a house at 16 Forest St and there are two recently planted trees on the sides whose roots will eventually threaten its foundation. The Arlington Tree Warden said that those trees might have been planted due to a Conservation Commission request. While some of the property is within 200 ft of Mill Brook, I think neither of these trees are.

Can you confirm if these trees fall under the Commission purview? If yes, how can I apply for a permit to remove them?

Yours sincerely,  
David Guszejnov



## Town of Arlington, Massachusetts

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**Enforcement Order: 65 Dudley Street.**

**Summary:**

Enforcement Order: 65 Dudley Street.

**ATTACHMENTS:**

	Type	File Name	Description
▢	Reference Material	65_Dudley_Street_Enforcement_Order_Package.pdf	65 Dudley Street Enforcement Order Package



TOWN OF ARLINGTON  
MASSACHUSETTS  
CONSERVATION COMMISSION

August 8, 2023

BY CERTIFIED MAIL

ZHENG IRIS ZHAOYAN  
65 Dudley Street  
Arlington, MA 02476

RE: Wetland Violations at 65 Dudley Street

The Arlington Conservation Commission has evidence that you have violated the Wetlands Protection Act and the Arlington Bylaw for Wetland Protection. The Conservation Agent went to your property on June 23, 2023, and saw that you had done work that is not allowed without a permit. Please see the enclosed photographs for reference.

The Conservation Commission is requiring you to stop working on your property right away. You are also required to come to the meeting on August 17, 2023 at 7:00 PM. The meeting will be online using Zoom. You can find more information on the Conservation Commission's website.


At the meeting, you will need to explain what work you have done so far and what you plan to do with the property. The Conservation Commission will decide what you need to do to fix the problem.

If you do not stop working on your property or if you do not come to the meeting, the Conservation Commission could fine you.

If you have any questions, please call me at 781.316.3012.

Thank you for your time.

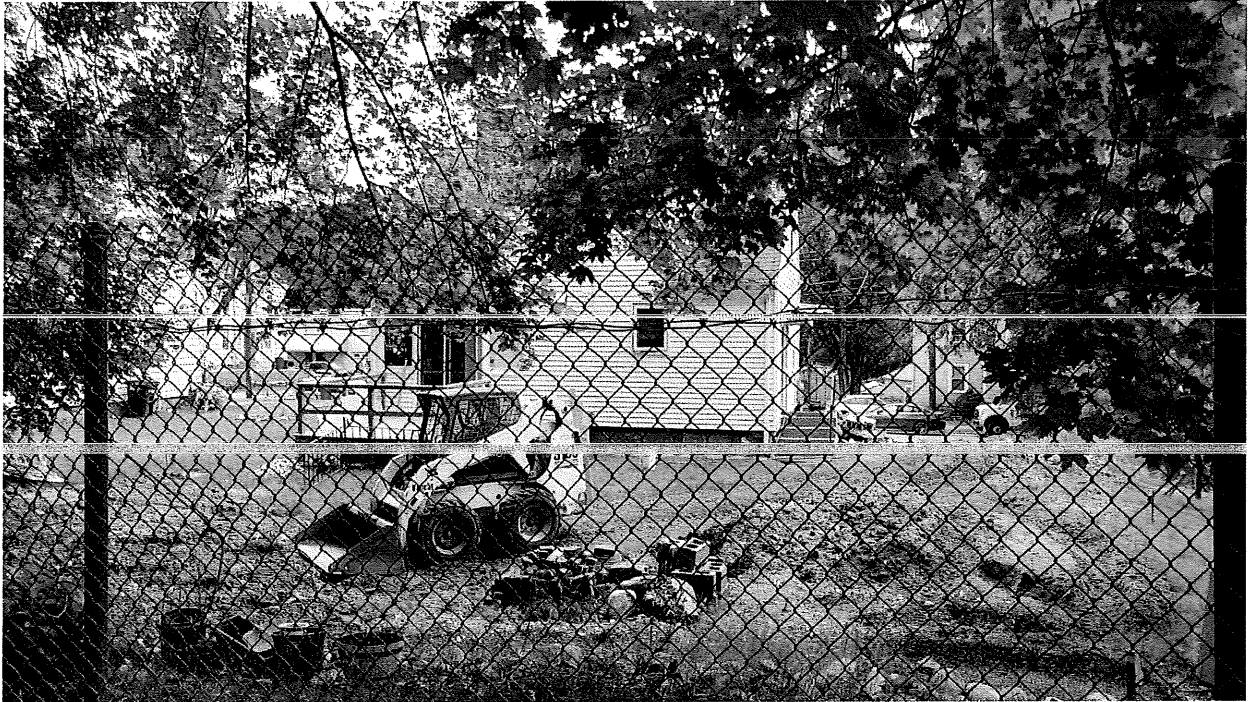
Sincerely,



David Morgan  
Environmental Planner + Conservation Agent

Enclosure

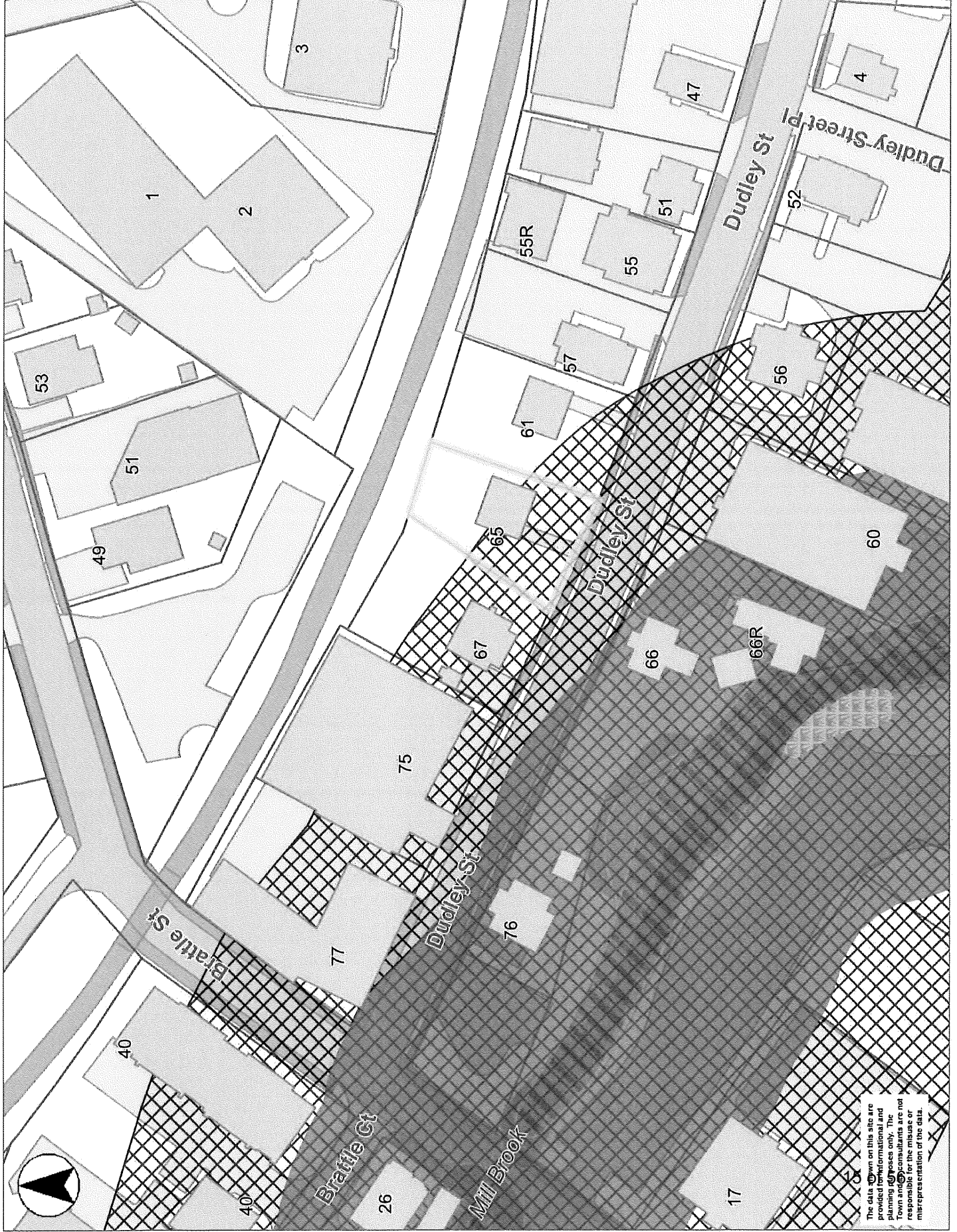
cc: Mass. DEP, NERO – Wetlands Division  
File



**Figure 1** Unpermitted activity at 65 Dudley Street observed on July 23, 2023



- Places by Category  
Police Station  
Fire Station  
School  
Library  
Public Works  
Buildings  
Wetlands  
Wetland Regulated Buffer (1  
Wetland Regulated Riverfr  
FEMA National Flood Hazz  
A and AE - 1% Annua  
AE: Regulatory Floo  
X: 0.2% Annual Cha  
Parcels  
MA Highways  
Interstate  
US Highway  
Numbered Routes  
Abutting Towns  
Town Boundary  
Cemetery - Roads  
Road1  
Road2  
Road3  
Road4  
Pavement Markings  
Impervious Surface - For B  
Street  
Sidewalk  
Street Island  
Driveway  
Parking Lot  
Bike Path  
Roads - For Large Scale (ft  
Roads - For Small Scale (ft  
Major Road  
Local Road  
Master Plan Base Map - M  
Water Line  
Water Body



The data shown on this site are provided for informational and planning purposes only. The Town and its consultants are not responsible for the misuse or misrepresentation of the data.



Printed on 08/02/2023 at 12:11 PM

# Planning and Community Development







Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
**WPA Form 9 – Enforcement Order**  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number: \_\_\_\_\_

## A. Violation Information

**Important:**

When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



This Enforcement Order is issued by:

Arlington  
Conservation Commission (Issuing Authority)

08/02/2023  
Date

To:

ZHENG IRIS ZHAOYAN  
Name of Violator  
65 Dudley Street  
Address

1. Location of Violation:

Property Owner (if different)  
65 Dudley Street  
Street Address  
Arlington  
City/Town  
55-1  
Assessors Map/Plat Number

02476  
Zip Code  
3A  
Parcel/Lot Number

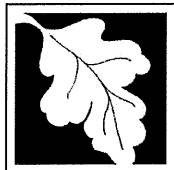
2. Extent and Type of Activity (if more space is required, please attach a separate sheet):

Unpermitted excavation, grading, and construction

## B. Findings

The Issuing Authority has determined that the activity described above is in a resource area and/or buffer zone and is in violation of the Wetlands Protection Act (M.G.L. c. 131, § 40) and its Regulations (310 CMR 10.00), because:

☒ the activity has been/is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone without approval from the issuing authority (i.e., a valid Order of Conditions or Negative Determination).



**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands  
**WPA Form 9 – Enforcement Order**  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number: \_\_\_\_\_

**B. Findings (cont.)**

☐ the activity has been/is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone in violation of an issuing authority approval (i.e., valid Order of Conditions or Negative Determination of Applicability) issued to:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Dated

\_\_\_\_\_  
File Number

\_\_\_\_\_  
Condition number(s)

☐ The Order of Conditions expired on (date). \_\_\_\_\_ Date

☐ The activity violates provisions of the Certificate of Compliance.

☐ The activity is outside the areas subject to protection under MGL c.131 s.40 and the buffer zone, but has altered an area subject to MGL c.131 s.40.

☐ Other (specify):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**C. Order**

The issuing authority hereby orders the following (check all that apply):

- ☒ The property owner, his agents, permittees, and all others shall immediately cease and desist from any activity affecting the Buffer Zone and/or resource areas.
- ☐ Resource area alterations resulting from said activity shall be corrected and the resource areas returned to their original condition.
- ☐ A restoration plan shall be filed with the issuing authority on or before \_\_\_\_\_ Date

for the following:

\_\_\_\_\_

The restoration shall be completed in accordance with the conditions and timetable established by the issuing authority.



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
**WPA Form 9 – Enforcement Order**  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number: \_\_\_\_\_

**C. Order (cont.)**

- ☐ Complete the attached Notice of Intent (NOI). The NOI shall be filed with the Issuing Authority on or before:

\_\_\_\_\_ Date

for the following:

\_\_\_\_\_ No further work shall be performed until a public hearing has been held and an Order of Conditions has been issued to regulate said work.

- ☒ The property owner shall take the following action (e.g., erosion/sedimentation controls) to prevent further violations of the Act:

Attend the 08/17/2023 7:00 PM meeting of the Arlington Conservation Commission, establish erosion controls of a biodegradable 12" mulch sock at the limit of work

\_\_\_\_\_ Failure to comply with this Order may constitute grounds for additional legal action. Massachusetts General Laws Chapter 131, Section 40 provides: "Whoever violates any provision of this section (a) shall be punished by a fine of not more than twenty-five thousand dollars or by imprisonment for not more than two years, or both, such fine and imprisonment; or (b) shall be subject to a civil penalty not to exceed twenty-five thousand dollars for each violation". Each day or portion thereof of continuing violation shall constitute a separate offense.

**D. Appeals/Signatures**

An Enforcement Order issued by a Conservation Commission cannot be appealed to the Department of Environmental Protection, but may be filed in Superior Court.

Questions regarding this Enforcement Order should be directed to:

\_\_\_\_\_ Name

\_\_\_\_\_ Phone Number

\_\_\_\_\_ Hours/Days Available

Issued by:

\_\_\_\_\_ Conservation Commission

Conservation Commission signatures required on following page.

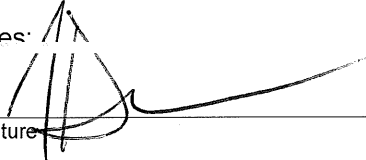


Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
**WPA Form 9 – Enforcement Order**  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40


DEP File Number: \_\_\_\_\_

**D. Appeals/Signatures (cont.)**

In a situation regarding immediate action, an Enforcement Order may be signed by a single member or agent of the Commission and ratified by majority of the members at the next scheduled meeting of the Commission.

Signatures: 

Signature

  
Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature of delivery person or certified mail number



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## Town of Arlington, Massachusetts

**Request for Certificate of Compliance: 70 Medford Street (Mt. Pleasant Cemetery Columbarium).**

**Summary:**

Request for Certificate of Compliance: 70 Medford Street (Mt. Pleasant Cemetery Columbarium).

**ATTACHMENTS:**

	Type	File Name	Description
▢	Reference Material	70_Medford_Street_Site_Visit_Summary.pdf	70 Medford Street Site Visit Summary



TOWN OF ARLINGTON  
MASSACHUSETTS  
CONSERVATION COMMISSION

## SITE VISIT SUMMARY

This document serves as a legal notice of the Arlington Conservation Commission's findings on a recent site visit. Questions concerning this notice should be directed to the Arlington Conservation Commission, telephone 781-316-3012

- A. Location of Site Visit: 70 Melford St / Mt. Pleasant Country
- B. Attendees Present: David Morgan + Ryan Clapp
- C. Date of Site Visit: 08-02-23
- D. Reason for Site Visit: COC Review
- E. Findings: Project built to spec, mitigation area  
in good shape (~60 live plants).  
Recommended proceeding with COC

- F. Required Actions: ☐ Cease immediately all work on the property  
☐ Call the office to discuss the matter by \_\_\_\_\_  
☐ Attend the \_\_\_\_\_ meeting of the Conservation Commission to discuss the matter. Call the office for details.  
☐ No action required

- G. Follow-up Site Visit: Not required, pending receipt of as-built plan and engineer's statement

A representative from the Arlington Conservation Commission will conduct a follow-up site visit to ensure continued compliance on or after the date listed above unless you call the office at 781-316-3012 to schedule a specific date and time for the site visit. Please feel free to call the office to discuss the matter.

H. Issuing Agent of the Commission

Signature: [Signature] Date: 08-02-23  
Printed name: David Morgan, Environmental Planner + Conservation Agent



## Town of Arlington, Massachusetts

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### Request for Permit Extension: 88 Coolidge Road.

#### Summary:

Request for Permit Extension: 88 Coolidge Road.

This public hearing will consider a permit extension to an Order of Conditions for construction of a new house at 88 Coolidge Road in the Buffer Zone to a Bordering Vegetated Wetland.

#### ATTACHMENTS:

	Type	File Name	Description
▢	Reference Material	Request_for_Extension_to_OOC_for_88_Coolidge_Road.pdf	Request for Extension to OOC for 88 Coolidge Road
▢	Reference Material	88_Coolidge_Order_of_Conditions.pdf	88 Coolidge Order of Conditions

Mary Trudeau  
Wetlands Consultant  
141 Lowell Street  
Lexington, Massachusetts 02420  
781-424-4768  
[marytrudeau@ymail.com](mailto:marytrudeau@ymail.com)

August 3, 2023

Arlington Conservation Commission  
Town Hall  
Arlington, MA

Re: 88 Coolidge Road, Arlington, MA  
Request for extension to Order of Conditions (91-278)

To the Commission:

The Arlington Conservation Commission issued an Order of Conditions for the 88 Coolidge Road property on October 5, 2017. With respect to delays incurred between the issuance of the Order of Conditions, and the applicant's resolution of various legal challenges, the Conservation Commission, subsequently, issued a three year extension to the Order of Conditions on September 22, 2020. This extension remains valid and has an expiration date of October 5, 2023.

As you are aware, work on this project commenced within the life of the Order of Conditions, and has been delayed by the issuance of an enforcement action in October of 2022. The enforcement action stopped all work on the site, and required the applicant to amend the existing Order of Conditions to accurately reflect the construction techniques required to construct a foundation on this lot. The request for an Amendment was filed with the Arlington Conservation Commission in March of 2023, and remains under review by the Arlington Conservation Commission. As the October 5, 2023 expiration date is approaching, this letter is a request for an additional three year extension to the Order of Conditions. This extension will allow the Commission to complete their review of the requested amendment, and allow the applicant to subsequently complete the construction of the project.

Thank you for your consideration of this request. Please note that this request has been filed with the Arlington Conservation Commission more than thirty days prior to the expiration of the Order of Conditions. Feel free to contact me with any questions.

Sincerely,



Mary Trudeau, for Jonathan Nyberg





TOWN OF ARLINGTON  
MASSACHUSETTS  
CONSERVATION COMMISSION

October 5, 2017

**HAND DELIVERY**

Jonathan Nyberg  
P.O. Box 292  
Arlington, MA 02476

**RE: Order of Conditions for 88 Coolidge Rd - DEP File Number 91-0278**

Enclosed is the original Order of Conditions permit for the above-referenced project, issued pursuant to the Wetlands Protection Act, GL c. 131, § 40, and the Arlington Bylaw for Wetland Protection, Title V, Article 8.

No work on the project may begin until ALL of the following requirements have been satisfied:

- ☐ You have signed and returned to this office the attached Certificate of Understanding.
  - ☐ The 10-business day appeal period has elapsed. The appeal period begins on the date of issuance of the Order.
  - ☐ You have had the original Order recorded at the Middlesex South Registry of Deeds and the receipt forwarded to the Conservation Commission. The Order is not valid until properly recorded.
  - ☐ The DEP file number sign has been erected at the project entrance (as specified in the General Conditions).
  - ☐ You have read and understand the enclosed Order of Conditions. Compliance with all conditions and the approved plans is the responsibility of the applicant. Deviation from the approved plans may result in a stop work order or further enforcement, as well as the inability to obtain a Certificate of Compliance.
- 
- ☐ You have conducted a "pre-construction site visit" with the Conservation Administrator, installed erosion controls, submitted in writing the names and telephone numbers of the parties responsible for the work (such as the general contractor, erosion control monitor, field engineer, and wetland scientist), and submitted a schedule of construction, as applicable.
  - ☐ Please note that there may be other specific requirements in your Order of Conditions, which may be required for your site. Please be sure to read the whole Order. It is your responsibility to comply with all aspects of the Order.

Upon completion of the project, you must submit:

- ☐ A "Request for a Certificate of Compliance" (state WPA form 8a) and
- ☐ An engineer-stamped and signed "as-built plan" to the Conservation Commission stating that all conditions have been satisfactorily completed in compliance with the plans and the Order.

Once received, your Certificate of Compliance must be recorded at the Middlesex South Registry of Deeds, and the receipt sent to the Conservation Office (as per the Wetlands Protection Regulations).

Please contact our office with any questions at 781-316-3012 or email [lshepherd@town.arlington.ma.us](mailto:lshepherd@town.arlington.ma.us).

Thank you,



Lela Shepherd  
Environmental Planner/Conservation Agent

Enclosures: Order of Conditions  
Certificate of Understanding

Cc:file, DEP-NERO

Received by

Date

TOWN HALL, 730 MASSACHUSETTS AVENUE, ARLINGTON, MA 02476  
(781) 316-3012



TOWN OF ARLINGTON  
MASSACHUSETTS  
CONSERVATION COMMISSION

**CERTIFICATE OF UNDERSTANDING**

RE: Conditions and Restrictions in Wetland Resource Areas and Buffer Zones


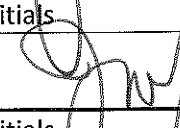
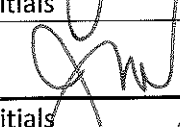
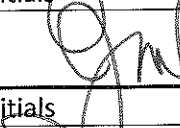
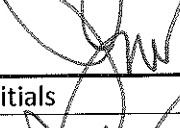

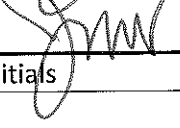
Street Address: 88 Coolidge Rd.

DEP File No: 91-0278

Owner: Jonathan Nyberg

Issue Date: October 5, 2017

I, Jonathan Nyberg, owner of 88 Coolidge Road, Arlington, Massachusetts, do hereby acknowledge and understand that:

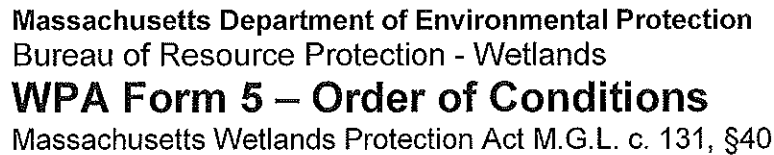
<ul style="list-style-type: none"><li>• All or some of my property lies within wetland resource areas such that any <b>new work</b> within this area is subject to review and approval by the Conservation Commission;</li></ul>	 Initials
<ul style="list-style-type: none"><li>• I, as property owner, am <b>responsible for all work on my property</b> even if it is conducted by contractors;</li></ul>	 Initials
<ul style="list-style-type: none"><li>• I have received, <b>read and understand all the general and special conditions</b> contained in the referenced Order of Conditions;</li></ul>	 Initials
<ul style="list-style-type: none"><li>• There are specific <b>requirements PRIOR to the start of work</b> which I agree to follow;</li></ul>	 Initials
<ul style="list-style-type: none"><li>• There are specific <b>requirements DURING construction and work</b> which I agree to follow;</li></ul>	 Initials
<ul style="list-style-type: none"><li>• There are specific <b>requirements for getting a Certificate of Compliance</b> once all permitted work is completed; and</li></ul>	 Initials
<ul style="list-style-type: none"><li>• There are a number of <b>ongoing/perpetual conditions that restrict the kind of landscaping and maintenance activities</b> allowed within wetland resource areas and/or buffer zones.</li></ul>	 Initials

I have carefully reviewed and understand all of these requirements and agree to adhere to them.

  
Signature

Jonathan Nyberg  
Printed Name

10/5/17  
Date



Provided by MassDEP:  
091-0278  
MassDEP File #  
eDEP Transaction #  
Arlington  
City/Town

## A. General Information

**Please note:**  
this form has  
been modified  
with added  
space to  
accommodate  
the Registry  
of Deeds  
Requirements

**Important:** When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. From: Arlington  
Conservation Commission
2. This issuance is for (check one): a. ☒ Order of Conditions b. ☐ Amended Order of Conditions
3. To: Applicant:

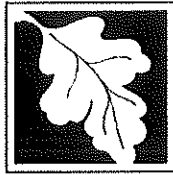
Jonathan		Nyberg	
a. First Name		b. Last Name	
c. Organization			
P.O. Box 292			
d. Mailing Address			
Arlington		MA	02476
e. City/Town		f. State	g. Zip Code

4. Property Owner (if different from applicant):

a. First Name	b. Last Name	
c. Organization		
d. Mailing Address		
e. City/Town	f. State	g. Zip Code

5. Project Location:

88 Coolidge Rd	Arlington	
a. Street Address	b. City/Town	
147.0-0004-0008.0		
c. Assessors Map/Plat Number	d. Parcel/Lot Number	
Latitude and Longitude, if known:	42d24m50.544 Ns	71d10m27.03 Ws
	d. Latitude	e. Longitude



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
**WPA Form 5 – Order of Conditions**  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:  
091-0278  
MassDEP File #

eDEP Transaction #  
Arlington  
City/Town

**A. General Information (cont.)**

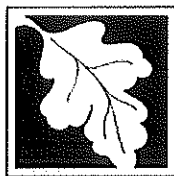
6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):  
Middlesex  
a. County 66161 b. Certificate Number (if registered land) 217  
c. Book 6/30/2016 d. Page 8/17/2017  
7. Dates: a. Date Notice of Intent Filed 10/5/2017 b. Date Public Hearing Closed c. Date of Issuance  
8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):  
Drainage/Grading Plan  
a. Plan Title Gala Simon Associates, Inc Al Gala, PE  
b. Prepared By 8/7/2017 c. Signed and Stamped by 1'=10'  
d. Final Revision Date Invasive Spec. Mgmt & Buffer Zone Restoration Plan by LEC e. Scale 7/24/2017  
f. Additional Plan or Document Title g. Date

**B. Findings**

1. Findings pursuant to the Massachusetts Wetlands Protection Act:
- Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:
- a. ☐ Public Water Supply b. ☐ Land Containing Shellfish c. ☒ Prevention of Pollution  
d. ☐ Private Water Supply e. ☐ Fisheries f. ☒ Protection of Wildlife Habitat  
g. ☒ Groundwater Supply h. ☒ Storm Damage Prevention i. ☒ Flood Control
2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

**Approved subject to:**

- a. ☒ the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
**WPA Form 5 – Order of Conditions**  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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Arlington  
City/Town

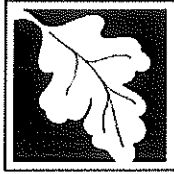
## B. Findings (cont.)

Denied because:

- b. ☐ the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. ☐ the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
3. ☒ Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) 51.8  
a. linear feet

**Inland Resource Area Impacts:** Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet e. c/y dredged	b. square feet f. c/y dredged	c. square feet	d. square feet
7. <input type="checkbox"/> Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
**WPA Form 5 – Order of Conditions**  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

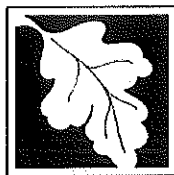
Provided by MassDEP:  
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**B. Findings (cont.)**

**Coastal Resource Area Impacts:** Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	c. <sup>cu yd</sup> nourishment	d. <sup>cu yd</sup> nourishment
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. <sup>cu yd</sup> nourishment	d. <sup>cu yd</sup> nourishment
15. <input type="checkbox"/> Coastal Banks	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	a. c/y dredged	b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		
22. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
**WPA Form 5 – Order of Conditions**  
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Provided by MassDEP:  
091-0278  
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eDEP Transaction #  
Arlington  
City/Town

## B. Findings (cont.)

\* #23. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23. ☐ Restoration/Enhancement \*:

a. square feet of BVW

b. square feet of salt marsh

24. ☐ Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

## C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
  - a. The work is a maintenance dredging project as provided for in the Act; or
  - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
  - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on \_\_\_\_\_ unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.





Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
**WPA Form 5 – Order of Conditions**  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

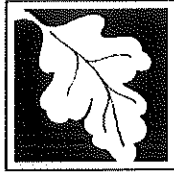
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**C. General Conditions Under Massachusetts Wetlands Protection Act**

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,  

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]  
"File Number            91-0278            "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

**WPA Form 5 – Order of Conditions**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

091-0278

MassDEP File #

eDEP Transaction #

Arlington

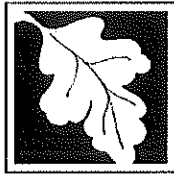
City/Town

**C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)**

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
19. The work associated with this Order (the "Project")
- (1) ☐ is subject to the Massachusetts Stormwater Standards
  - (2) ☒ is NOT subject to the Massachusetts Stormwater Standards

**If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:**

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
  - i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
  - ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
  - iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

**WPA Form 5 – Order of Conditions**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

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**C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)**

iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;

v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:

i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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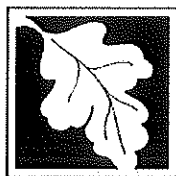
**C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)**

- g) The responsible party shall:
1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
  2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
  3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

**See attached 15 pages, conditions #21-56 applicable under Wetlands Protection Act and Arlington Wetlands Protection Bylaw.**

20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



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## D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? ☒ Yes ☐ No
2. The Arlington Conservation Commission hereby finds (check one that applies):
  - a. ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw

2. Citation

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. ☒ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

Arlington Bylaw for Wetlands Protection

Title V, Art 8

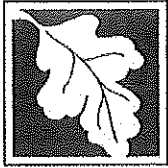
1. Municipal Ordinance or Bylaw

2. Citation

- 3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

See attached 15 pages, conditions #21-56.



Massachusetts Department of Environmental Protection  
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Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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## E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

1. Date of Issuance

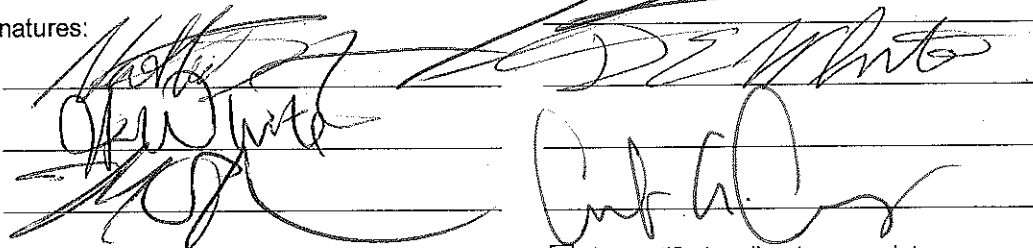
Please indicate the number of members who will sign this form.

This Order must be signed by a majority of the Conservation Commission.

2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signatures:



☐ by hand delivery on

☐ by certified mail, return receipt requested, on

Date

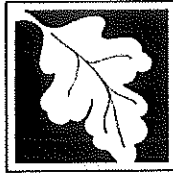
Date

## F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



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**WPA Form 5 – Order of Conditions**  
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## G. Recording Information

Prior to commencement of work, this Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

Arlington 730 Massachusetts Ave, Arlington MA 02476  
Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

Arlington  
Conservation Commission

Please be advised that the Order of Conditions for the Project at:

88 Coolidge Rd  
Project Location

91-0278  
MassDEP File Number

Has been recorded at the Registry of Deeds of:

Middlesex  
County

Book

Page

for: Jonathan Nyberg  
Property Owner

and has been noted in the chain of title of the affected property in:

66161  
Book

217  
Page

In accordance with the Order of Conditions issued on:

10/5/2017  
Date

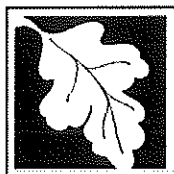
If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

Signature of Applicant



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
**Request for Departmental Action Fee  
Transmittal Form**

DEP File Number:

091-0278

Provided by DEP

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**A. Request Information**

1. Location of Project

a. Street Address

b. City/Town, Zip

c. Check number

d. Fee amount

2. Person or party making request (if appropriate, name the citizen group's representative):

Name

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

3. Applicant (as shown on Determination of Applicability (Form 2), Order of Resource Area Delineation (Form 4B), Order of Conditions (Form 5), Restoration Order of Conditions (Form 5A), or Notice of Non-Significance (Form 6)):

Name

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

4. DEP File Number:

**Important:**  
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



**B. Instructions**

1. When the Departmental action request is for (check one):

- ☐ Superseding Order of Conditions – Fee: \$120.00 (single family house projects) or \$245 (all other projects)
- ☐ Superseding Determination of Applicability – Fee: \$120
- ☐ Superseding Order of Resource Area Delineation – Fee: \$120





**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands  
**Request for Departmental Action Fee**  
**Transmittal Form**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

091-0278

Provided by DEP

**B. Instructions (cont.)**

Send this form and check or money order, payable to the *Commonwealth of Massachusetts*, to:

Department of Environmental Protection  
Box 4062  
Boston, MA 02211

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <http://www.mass.gov/eea/agencies/massdep/about/contacts/>).
4. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Referenced Documents

DOCUMENTS REVIEWED

1. Notice of Intent for work at 88 Coolidge Road, Arlington, MA, signed Richard Kirby, LEC Environmental Consultants (LEC) on behalf of the Applicant: Jonathan Nyberg, dated June 30, 2016 (30 pages).
2. Minutes of the February 25, 2016, Arlington Conservation Commission ("ACC") meeting.
3. A Stop Work Order issued on (approx. February 26, 2016) by Conservation Administrator Cori Beckwith.
4. Soil Testing Program Plan, prepared by Gala Simon Associates, Inc. (GSA), dated March 1, 2016.
5. Minutes of the March 3, 2016, ACC meeting.
6. Letter from Bruce Whelittle dated March 10, 2016.
7. Letter from Bruce Whelittle dated March 15, 2016.
8. Minutes of the March 17, 2016, ACC meeting.
9. Revised Plan, prepared by GSA, submitted on April 7, 2016.
10. Minutes of the April 7, 2016, ACC meeting.
11. Approval of request for site access to complete test pits by Cori Beckwith, dated April 12, 2016.
12. Drainage/Grading Plan for Lot A Coolidge Rd., prepared by GSA, dated June 3, 2016.
13. Letter from Wayne Chouinard, PE, Arlington Town Engineer, dated July 12, 2016.
14. Minutes of the July 21, 2016, ACC meeting.
15. Letter from Bruce Whelittle, dated July 25, 2016.
16. Letter from Susan Whelittle, dated July 28, 2016.
17. Email from Bruce and Susan Whelittle, dated August 2, 2016.
18. Letter received from Elizabeth Pyle, Esq., on August 18, 2016.

19. Request for Continuance from LEC, dated August 18, 2016.
20. Request for Continuance from LEC, dated October 3, 2016.
21. Request for Continuance from LEC, dated September 15, 2016.
22. Notice of Intent Application Addendum for work at 88 Coolidge Road, Arlington, MA, prepared by LEC, dated October 25, 2016; including:
  - a. a revised *Drainage/Grading Plan*, dated June 3, 2016, revised through October 18, 2016;
  - b. and *Revised Engineering Drainage Calculations* dated June 3, 2016, revised through October 18, 2016, both prepared by Gala Associates ;
  - c. an *Invasive Species Management and Buffer Zone Restoration Planting Plan* dated October 21, 2016 prepared by LEC,
  - d. a *Variance Request* from the Arlington Bylaw Regulations tree replacement requirements, and
  - e. a letter from Peter F. Durning, Esq., dated October 25, 2016.
23. Letter from Raquel Alonzo-Perez, dated October 26, 2016.
24. Report from Bruce Wheltle, dated November 3, 2016.
25. Letter from Elizabeth Pyle, Esq., dated November 3, 2016.
26. Minutes of the November 3, 2016, ACC meeting.
27. Transcript of the November 3, 2016, ACC meeting prepared by Susan and Bruce Wheltle.
28. Letter from Susan and Bruce Wheltle, dated November 21, 2016 (20 pages long and includes 3 exhibits).
29. Letter from Justine Covault of 86 Coolidge Road, dated November 21, 2016.
30. Email from Elizabeth Pyle, Esq., dated November 21, 2016.
31. Letter with audio file of Eastern Screech Owl from Megan Burns, dated November 21, 2016.
32. Mullin Certification by Nathaniel Stevens submitted on November 28, 2016 for the July 21, 2016 ACC meeting.
33. Request for Continuance from LEC, dated November 28, 2016.
34. NOI Addendum II, prepared by LEC, dated December 6, 2016, including:

- a. Appendix A *Invasive Species Management and Buffer Zone Restoration Planting Plan* dated October 21, 2016, revised through December 2, 2016;
  - b. Appendix B – Letter from Peter F. Durning, Esq., dated December 6, 2016;
  - c. Appendix C resume of Brian Madden, LEC;
  - d. *Site Plan*, prepared by GSA, dated December 2, 2016;
  - e. an *Alternatives Exhibit Plan* and prepared by GSA, dated December 2, 2016;
  - f. *75-Buffer foot Restricted Zone Exhibit Plan*, prepared by GSA, dated December 2, 2016; and
  - g. *Engineer Drainage Calculations*, prepared by GSA, dated December 2, 2016.
35. Memo prepared by Cori Beckwith, Conservation Administrator, dated December 13, 2016.
36. Minutes of the December 15, 2016 ACC meeting.
37. Letter from Richard Kirby of LEC, dated December 15, 2016.
38. Copy of transmittal of NOI Addendum II and associated plan set directed to Wayne Chouinard, Arlington Town Engineer, dated December 2, 2016.
39. Proposal for peer review services from Epsilon Associates, Inc., dated December 30, 2016.
40. Request for Continuance to January 19, 2017 from LEC, dated January 3, 2017.
41. Email from Wayne Chouinard, Arlington Town Engineer, dated January 5, 2017.
42. Proposal for peer review services from Haley & Aldrich, Inc., dated January 13, 2017.
43. Proposal for peer review services from SITEC, dated January 17, 2017.
44. Proposal for peer review services from New England Environmental, dated January 18, 2017.
45. Proposal for peer review services from Nobis Engineering, Inc., dated February 1, 2017.
46. Request for Continuance to February 2, 2017 from LEC, dated January 18, 2017.
47. Email from Elizabeth Pyle, Esq., dated January 24, 2017.
48. Email from Peter F. Durning, Esq., dated January 24, 2017.
49. Email from Bruce Wheltle attaching a photograph, dated January 30, 2017.
50. Memo from Nathaniel Stevens, Arlington Conservation Commission Chair, dated February 2, 2017.

51. Minutes of the February 2, 2017ACC meeting.
52. Email from Attorney Elizabeth Pyle attaching the March 1, 2010, peer review request for Lot C, Coolidge Road
53. Email from Bruce Wheltle attaching a map, dated February 21, 2017.
54. Emergency Request for removal of 3 trees at 88 Coolidge Road from LEC, dated February 28, 2017.
55. Tree removal order of the Town of Arlington Tree Warden, dated March 2, 2017.
56. Emergency Certification for Tree Removal at 88 Coolidge Road, dated March 3, 2017.
57. Contract for peer review services between the Town of Arlington and Nobis Engineering, Inc., dated March 23, 2017.
58. Emergency Certification for Tree Removal at 88 Coolidge Road (extension), dated March 31, 2017.
59. Request for Continuance to April 27, 2017 from LEC, dated March 30, 2017.
60. Email from Elizabeth Pyle, Esq., dated April 8, 2017.
61. Limited site access and release form signed by Jonathan Nyberg, dated April 11, 2017.
62. Submittal from Bruce Wheltle, dated April 12, 2017.
63. Email from Jim Vernon, Nobis Engineering, Inc., dated Apr 13, 2017.
64. Email from Richard A. Kirby, LEC, dated April 18, 2017.
65. Email from Elizabeth Pyle, Esq., dated April 18, 2017.
66. Email from Jonathan Nyberg, dated April 25, 2017.
67. Email from Nathaniel Stevens to Jonathan Nyberg, dated April 25, 2017.
68. Email from Bruce Wheltle, dated April 26, 2017.
69. Draft Report Hydrogeologic Peer Review of NOI for 88 Coolidge Road prepared by Nobis Engineering, Inc., dated April 28, 2017.
70. Request for Continuance to May 18, 2017 from LEC, dated May 1, 2017.

71. Email from Rich Kirby, LEC, dated May 3, 2017.
72. Submittal from Jim Vernon, Nobis Engineering, Inc., dated May 3, 2017.
73. Email from Elizabeth Pyle, Esq., dated May 4, 2017.
74. Minutes of the May 4, 2017 ACC meeting.
75. Administrative Approval of the additional test pits with conditions issued by the Town of Arlington Conservation Commission, dated May 8, 2017.
76. Email from Bruce Wheltle, dated May 12, 2017 with attachment.
77. Request for Continuance to June 15, 2017 from LEC, dated May 16, 2017.
78. Request for Continuance to June 15, 2017 from LEC, dated May 16, 2017.
79. Email from Rich Kirby, dated May 16, 2017.
80. Request for Continuance to July 20, 2017 from LEC, dated June 12, 2017.
81. Emergency Certification for Tree Removal at 88 Coolidge Road, dated June 28, 2017.
82. Hydrogeologic Review for 88 Coolidge Road, Arlington, prepared by Matt Hodge, P.E., Hodge.WaterResources, LLC, dated July 5, 2017.
83. Existing Conditions & Site Preparation Plan for 86 Coolidge Road, prepared by GSA, dated July 3, 2017.
84. Revised Drainage/Grading Plan [C-1] at 86 Coolidge Road, prepared by GSA, dated July 3, 2017.
85. Invasive Species Management & Buffer Zone Restoration Planting Plan for 88 Coolidge Road, prepared by LEC, dated July 24, 2017.
86. Hydrogeologic Peer Review of a Notice of Intent for 88 Coolidge Road, Arlington, prepared by James Vernon, PhD., Nobis Engineering, Inc., dated July 24, 2017, with 6 attachments.
87. Presentation entitled Independent Hydrogeologic Study, 88 Coolidge Road, Arlington, Massachusetts, presented by James Vernon, PhD., Senior Hydrologist with Nobis Engineering, Inc., at the August 2, 2017 Arlington Conservation Commission meeting.
88. Letter from Elizabeth Pyle, Esq., dated August 1, 2017.
89. Letter from Peter F. Durning, Esq., dated August 2, 2017.

90. Letter from Pat Baillieul, dated August 1, 2017.
91. Minutes of the August 2, 2017 ACC meeting.
92. Transmittal letter from Gala Simon Associates, Inc. dated August 9, 2017.
93. Drainage/Grading Plan, prepared by Gala Simon Associates, Inc., dated June 3, 2016, as revised, August 7, 2017.
94. Sketch S-1 by Gala Simon Associates, Inc., dated August 7, 2017.
95. Sketch S-2 by Gala Simon Associates, Inc., dated August 7, 2017.
96. Engineering Drainage Calculations for 88 Coolidge Road, Arlington, Massachusetts, prepared by Gala Simon Associates, Inc., dated June 3, 2016, revised through August 7, 2017 (38 pages).
97. Letter from Matt Hodge, P.E., Hodge WaterResources, LLC, dated August 9, 2017.
98. Submittal from Bruce Wheltle, dated August 9, 2017.
99. Memo from Justine Covault, dated August 6, 2017, received August 11, 2017 (8 pages).
100. Email from Bruce Wheltle, dated August 11, 2017.
101. Email from Bruce Wheltle, dated August 11, 2017 transmitting via Dropbox an August 10, 2017 memo to the Commission (dated August 10, 2017) on Five Years of Photos (151 photographs).
102. Email from Bruce Wheltle, dated August 11, 2017.
103. Mullin Rule Certification prepared by Susan Chapnick for August 17, 2017 hearing.
104. Supplemental drainage calculations, prepared by GSA, dated August 16, 2017.
105. Drainage Delineation Plan Proposed Conditions, prepared by GSA, dated August 7, 2017.
106. Handwritten note from Peter F. Durning, Esq. granting an extension of time to September 30, 2017, to issue a final decision, dated August 17, 2017.
107. Memorandum from Elizabeth Pyle, Esq., dated August 17, 2017.
108. Unofficial property record card and deed for 86 Coolidge Road, printed on August 15, 2017.

109. E-mail from Peter F. Durning, Esq. granting an extension of time to October 6, 2017, to issue a final decision.

PROCEDURAL SUMMARY

The Conservation Commission held hearings on the June 30, 2016 Notice of Intent on July, 21, 2016, August 4, 2016, August 18, 2016, November 3, 2016, December 1, 2016, December 15, 2016, January 5, 2017, January 19, 2017, February 2, 2017, March 2, 2017, March 16, 2017, April 6, 2017, April 27, 2017, May 4, 2017, May 18, 2017, June 1, 2017, June 15, 2017, August 2, 2017, and August 17, 2017. The Commission closed the hearing on August 17, 2017 and on September 7, 2017 deliberated and voted 6-0 to approve the Project with conditions under the Wetlands Protection Act (the "Ac") and voted 4-2 to approve the Project with conditions under the Arlington Wetlands Protection Bylaw (the "Bylaw").

During the period of the hearings, the Applicant on February 28, 2017, applied for an Emergency Certification for the removal of two Norway Maple trees toward the rear of the property that were in poor health and had dropped branches on abutting property. The Arlington Tree Warden inspected the trees and ordered their removal. The Commission considered the request at its March 2, 2017 meeting and issued an Emergency Certification the following day. Due to the difficulty the Applicant had in finding someone to remove the trees, the Commission issued additional Emergency Certifications on March 31, 2017 and June 28, 2017, with the trees being removed in early July 2017.

Partially at the neighbors' urging, and partially to answer its own questions about the Project's possible effect on resource areas and resource area values, the Commission selected and then engaged James Vernon, P.E. of Nobis Engineering as a peer review consultant. Mr. Vernon conducted a lengthy site visit (on April 11, 2017), including visiting the neighborhood, prepared a draft and then final report following comments, and presented and discussed his findings at the Commission's August 2, 2017 meeting.

FINDINGS OF FACT AND LAW  
UNDER ARLINGTON WETLANDS PROTECTION BYLAW  
AND WETLANDS PROTECTION ACT

- A. The Project as revised and approved involves the construction of a single-family dwelling with a footprint of 1,305+/- square feet, driveway, and appurtenant utilities, retaining walls, and stormwater management devices on an undeveloped 6,035-square-foot lot located at 88 Coolidge Road in Arlington. The house footprint is not larger than the footprint of 35 houses in the neighborhood; unlike many if not all houses in the neighborhood, this house project will have some pervious surfaces and two stormwater infiltration units.
- B. The project site is mostly forested and located in a residential neighborhood. Site topography generally descends southeasterly from Coolidge Road, with an elevation gradient of roughly 25 feet. Roughly two-thirds of the structure will be constructed on top of a concrete foundation that is stepped to remain above bedrock and permit groundwater flow underneath, while the southern (roughly) one-third will be cantilevered over a 285+/- square-foot patio off the basement entrance.



- C. The Commission adopts and incorporates herein by reference from the July 14, 2017 Nobis report the following sections: 1. the "Site Setting and History" on pages 3 and 4; and 2. the observations of Nobis in the "Site Visit" section on pages 6 through 8.
- D. The Project proposes a retaining wall at the back (east side) that will be pervious and a portion of the driveway (not over the stormwater infiltration device) will have pervious pavers. Two stormwater management systems will collect and infiltrate stormwater from the house and driveway. Stormwater from the roof area will be directed to a subsurface stormwater infiltration system behind the pervious driveway while stormwater run-off from the driveway will discharge to a stormwater infiltration system located north of the proposed dwelling. Twelve trees and invasive plants in the understory will be removed. The Applicant will restore 2,500+/- square feet of the Adjacent Upland Resource Area ("AURA")/Buffer Zone by removing the invasive/exotic shrubs and saplings, and establish a native plant community comprised of 18 native sapling trees along with 87 native shrubs and 85 groundcover species including 35 lowbush blueberry and 50 native ferns, the success of which will be monitored for a period of three (3) years. Wildlife habitat enhancement includes installation of 5 bird boxes and 2 roosting bat boxes. The Invasive Species Management & Buffer Zone Restoration Planting Plan meets the requirements of Section 25 of the Commission's regulations and also is satisfactory mitigation for the trees removed pursuant to the Emergency Certification.
- E. The dwelling will measure 51.8 feet from the Bordering Vegetated Wetland ("BVW") boundary at its closest point.
- F. Portions of the proposed activities are located within the Buffer Zone to a BVW, which is the same area as the Adjacent Upland Resource Area ("AURA") under the Commission's Bylaw Regulations (of June 4, 2015). The Applicant proposes to implement erosion controls and stormwater management to minimize the potential for impacts to adjacent land during and after the proposed construction activities.
- G. The following Resource Areas are present on the site or within 100 feet of the lot lines: BVW, stream, and AURA (Bylaw) and Buffer Zone (Act). The Commission finds accurate the delineation of Resource Areas shown on the approved Project Plan; said delineation was revised after the August 2016 site visit.
- H. The Resource Areas on and adjacent to the Property are significant to the Resource Area values protected by the Act and by the Bylaw, as specified in the Bylaw Regulations and 310 CMR 10.00 for each Resource Area.
- I. The Commission considered the numerous and detailed comments and documents from abutters, neighbors, and their attorney, that documented flooding and drainage issues throughout the neighborhood and that also documented many species of wildlife on the Project site and on nearby properties; many of the other properties were developed with single-family homes. This input was tremendous and very helpful to the Commission.

- J. The Commission appreciated the Applicant responding to abutters' and the Commission's questions and comments. Resulting project modifications met the Applicant's burden of demonstrating that no other reasonable alternatives were available or practicable for work in the AURA as required in Section 25 of the Commission's Regulations for Wetlands Protection. In order to protect the interests of wildlife habitat, flood control, storm damage protection/prevention, erosion control and sedimentation (Bylaw only), protection of surrounding land and other homes or buildings (Bylaw only), all of particular concern of abutters, the Applicant reduced the proposed house footprint from 1,875 sq. ft. in the NOI to 1,305 sq. ft. in the final plans (30% reduction in footprint) which allowed for an increase in mitigation planting. In addition, the Applicant agreed to implement all of Nobis' six recommendations to minimize risk of flooding and minimize effects to the Resource Area, including agreeing to commit to an increased level of monitoring (see "Excavation Monitor"), and Applicant's numerous changes to the mitigation / planting plan based on Commission feedback. The Applicant revised its stormwater management plan and calculations several times in response to comments.
- K. The Commission finds the July 14, 2017 Nobis letter report and Mr. Vernon's testimony to be credible and more persuasive than other testimony in the record. The Commission thus adopts as a finding Mr. Vernon's conclusion that "If best management practices described in the design are followed, impacts to the neighboring stream and wetlands are unlikely" (Nobis report, p. 14). Third-party monitoring during excavation will ensure that conditions and BMPs are followed.
- i. Two rounds of test pits indicate that the project should not encounter shallow bedrock or groundwater and that there should be sufficient depth to place minimum of 8 inches of gravel under the foundation for water flow.
  - ii. No bedrock is being removed, and the foundation will not rest on bedrock; therefore, groundwater flow effects and damming effects are very unlikely (Nobis final report 2017).
  - iii. The proposed structure is outside of the 25 foot no-build zone and more than 50 feet from the BVW.
  - iv. Though it is acknowledged that impervious surfaces are increasing, as the current lot has no structures and vegetation is being removed, the Commission finds that the Applicant has met the requirements of Section 24 of the Regulations, which regulates "Vegetation Removal and Replacement". In addition, the Commission finds that the planned restoration area is an improvement to the site closest to the resource area, in that invasive species are being removed and native plantings established for the benefit of wildlife and water infiltration.
- L. The special conditions (several recommended by Nobis in the Final Report, 2017) require the Applicant to stop work if actual site conditions are different than those represented in the Project plans and documents; work cannot proceed until the Applicant has received approval from the Commission. The Commission may require that such approval be through an amendment to this Order and permit.
- M. Based on the testimony at the public hearings, and review of the application materials and the documents listed above submitted during the public hearings, the Commission concludes that

while the proposed Project will alter Resource Areas under the Act and Bylaw, the work as conditioned will not have significant or cumulative effects upon the interests of the Wetlands Protection Act or the Resource Area values of the Arlington Wetlands Bylaw, and the conditions imposed, including erosion controls and excavation monitoring during construction, re-vegetation planting plan, invasive plant management, and stormwater management plans will protect the Resource Area values. With the conditions contained herein, the Project meets the performance standards in the Bylaw Regulations and state Wetlands Regulations, 310 CMR 10.00.

- N. The Commission points out that the 88 Coolidge project is different from those it denied for houses at 47 Spy Pond Lane (DEP File # 91-278) for a number of reasons, including but not limited to:
- 47 Spy Pond Lane was a much larger lot (or even as two lots) and had room beyond the AURA to accommodate house(s), and even room within the existing impervious surface footprints for houses.
  - The 88 Coolidge project offers a more robust and greater amount (proportionally to overall lot size(s)) of mitigation planting than was offered for the much larger 47 Spy Pond Lot.
  - The 88 Coolidge lot does not currently provide superior wildlife habitat as it is not contiguous to any other substantially natural areas (i.e. it has houses all around it); whereas Spy Pond is itself a larger robust wildlife area with which 47 Spy Pond Lane is contiguous.

Additional Special Conditions

In addition to the General Conditions (numbered 1 – 20 above), the Project is subject to the following Additional Special Conditions (under both the Act and Bylaw):

21. Work permitted by this Order and Permit shall conform to the Notice of Intent, latest plans and documents (listed above), and oral representations (as recorded in hearing minutes) submitted or made by the Applicant and the Applicant's agents or representatives, as well as any plans and other data, information or representations submitted per these Conditions and approved by the Commission.
22. The provisions of this Order and Permit shall apply to and be binding upon the Applicant and Applicant's assigns, tenants, employees, contractors, and agents.
23. No work shall be started under this Order until: (a) all other required permits or approvals have been obtained and (b) the appeal period of ten (10) business days from the date of issue of this Order has expired without any appeal being filed. No work shall be started under this Permit until all other necessary permits or approvals have been obtained.
24. The Applicant shall ensure that a copy of this Order of Conditions and Permit for work, with any referenced plans, is available on site at all times, and that contractors, site managers, foremen, and sub-contractors understand its provisions.

25. Prior to starting work, the Applicant shall submit to the Commission the names and 24-hour phone numbers of numbers of project managers or the persons responsible for site work or mitigation.
26. Before work begins, erosion and sediment controls shall be installed at the limits of the work area. These will include a silt fence and straw wattle or staked strawbales around the entire work area (haybales are not allowed).
27. The contractor shall contact the Conservation Administrator ([ConComm@town.arlington.ma.us](mailto:ConComm@town.arlington.ma.us); 781-316-3012) to arrange for a site walk to confirm the installation and placement of erosion controls prior to the start of any grading or construction work.
28. All dumpsters must be covered at the end of each work day, and no dumpsters will be allowed overnight within the 100 foot Buffer Zone or Adjacent Upland Resource Areas or other Resource Areas.
29. No uncovered stockpiling of materials shall be permitted overnight within 100 feet of any waterway or water body. *The area shown on the plans for stockpiling is permitted.*
30. Areas that are disturbed by construction and access activities shall as soon as possible be brought to final grade and reseeded and restabilized, and shall be done so prior to the removal of the erosion control barrier.
31. Arrangements shall be made for dewatering, for any rinsing of tools, equipment, etc. associated with on-site mixing or use of concrete or other materials. In no case may this be placed in stormdrains without prior settling of fines. Any spillage of materials shall be cleaned up promptly.
32. Any dirt or debris spilled or tracked onto any paved streets shall be swept up and removed daily.
33. In the event of discovery of hazardous materials on the site during excavation work, clean up of these materials shall conform to the requirements and standards of State law and regulations.
34. No heavy equipment may be stored overnight within 50 feet of the wetland and no refueling or maintenance of machinery shall be allowed within the 100-foot Buffer Zone or within any Resource Area.
35. The Commission, its employees and its agents shall have the right of entry onto the site to inspect for compliance with the terms of this Order of Conditions and Permit.
36. When requesting a Certificate of Compliance for this Order of Conditions, the Applicant must submit a written statement from a Massachusetts professional engineer, registered land surveyor, or registered landscape architect certifying that the completed work complies with the

plans referenced in this Order, or provide an as-built plan and statement describing any differences.

37. The Applicant shall use clean fill consisting of sandy-silt with 85% compaction, and at least seven (7) days prior to bringing fill onto the project site, the Applicant shall notify the Commission and submit to the Commission cut sheets that specify the soil composition and source of the fill.
38. At least twenty-one (21) days before commencement of any excavation, the Applicant shall submit to the Commission for its review and approval design plans and structural design plans, both plans stamped by a professional engineer, for the retaining wall proposed for the southeast side of the dwelling that is to have a minimum of 6 inches crushed stone.
39. No bedrock shall be removed by any means. No blasting, chipping, or fracturing of bedrock is allowed. **This shall be a continuing condition that survives the expiration of the permit and shall be included in any Certificate of Compliance as a continuing condition.**
40. No part of the house foundation shall rest on bedrock. A minimum of eight (8) inches depth of crushed stone must be placed under the entire house foundation.
41. To avoid groundwater damming, the house foundation shall not be pinned to bedrock.
42. The "Excavation Monitor" and "Environmental Monitor" in these Special Conditions shall be selected and hired pursuant to the procedures in G.L. Ch. 44, § 53G and the Commission's implementing regulations, and no work may commence or be conducted until and unless both the "Excavation Monitor" and "Excavation Monitor" are hired (meaning their contract and any amendment thereto with the Town of Arlington is approved and thus are available to perform their work).
43. The Applicant shall pay for an independent professional "Excavation Monitor" selected by the Commission to be on site at all times during excavation activities for the house foundation, retaining walls, driveway, and storm water infiltration units and shall remain on site until each is backfilled. No such excavation activities shall occur without the Excavation Monitor present unless permitted by the Commission or its Agent. This Excavation Monitor shall be a hydrogeologist or hydrologist and a Massachusetts Professional Engineer. The Excavation Monitor shall monitor the excavation activities and notify the Commission immediately of any deviation from the Order of Conditions (including project plans and related documents), and, in particular, shall:
  - a. Observe the excavation activities to look for any sign of water entering the excavation from the side walls or from below; and.
  - b. Observe the excavation activities to note if any bedrock is encountered at a depth shallower than shown on the revised Project Plan C-1.In any event, the Excavation Monitor shall provide the Commission after backfilling of excavation a final report via email with photographs on any unexpected circumstances encountered, including but not limited to bedrock and/or water during excavation (see a. and b. above), and any minor project changes that comply with the terms and conditions of this Order

of Conditions. The Excavation Monitor shall note and report to the Commission any of the events described above and shall have the authority to stop work. Work should not resume until a resolution of the observed problem is agreed upon by the Applicant and the Commission with input from the Excavation Monitor.

44. The Applicant shall pay for an independent professional "Environmental Monitor" selected by the Commission to be on site to monitor the Project during all construction and planting work. This Environmental Monitor shall be qualified by experience and education to undertake such monitoring, as determined by the Commission. The Environmental Monitor shall be on site a minimum of once weekly and after any rainfall event of greater than 0.10 inches (over 24 hours) or as requested by the Commission. The Environmental Monitor shall provide the Commission with reports at least weekly via email with photographs of progress as well as more frequent reports on inspection and discovery and resolution of any non-compliance with the conditions in this Order of Conditions. The Environmental Monitor shall have the authority to stop work until any noncompliance is resolved. In addition to the foregoing duties and responsibilities, the Environmental Monitor shall:
- a. Ensure that erosion controls are in place and that best management practices called for in the project documents are followed;
  - b. Give attention to the eastern edge of the work area to make sure there is no discharge of water or soil toward the wetland;
  - c. Give attention to the southeastern property line, to ensure there is no discharge of soil or water toward the abutting property(ies) on Mt. Vernon Street;
  - d. Report any damage to trees;
  - e. Prior to backfilling, inspect and verify that infiltration units are installed properly with the required depths;
  - f. Check that crushed stone below the house foundation is the required 8-inch depth; and
  - g. Check that the plants are planted pursuant to the mitigation planting plan ("Invasive Species Management & Buffer Zone Restoration Planting Plan" by LEC revised thru July 24, 2017).
45. If bedrock elevation is discovered to be higher than represented in the project plans and documents, work shall immediately stop, the Applicant shall immediately notify the Commission, and if the Applicant wishes to continue with the work, shall apply for an Amended Order of Conditions if:
- a. Bedrock elevation prevents a minimum separation of 4 feet between bedrock and the bottom of the Cultec infiltration units;
  - b. Bedrock elevation prevents a minimum separation of 4 feet between bedrock and the pervious pavement system;
  - c. Bedrock elevation prevents a minimum separation of 8 inches between bedrock and the bottom house foundation; or
  - d. Bedrock elevation prevents a minimum separation of 6 inches between bedrock and the bottom of the retaining wall on the eastern side of the house.
46. If the excavation work causes an upward flow of groundwater, work shall immediately stop and measures shall be implemented to contain the flow, and the Applicant shall consult with the Excavation Monitor to determine whether a minor field change can be made that complies with

the terms and conditions of this Order of Conditions, and, if so, work may proceed upon immediate oral and written notification of the Conservation Commission. If such a minor field change is not feasible, the Applicant stop work and shall apply for an Amended Order with the knowledge that there is no right to an Amended Order.

47. Pursuant to DEP Wetlands Program policy 85-4-Amended Orders, an amended order is appropriate only for changes that are relatively minor and will have unchanged or less impacts on the interests protected by the Act and Bylaw. The Commission shall determine whether the proposed project change results in the project continuing to meet relevant performance standards, and whether the potential for adverse impacts to the protected statutory interests of the Bylaw and Act will be increased. Relatively minor changes which result in the same or decreased impact on the interests protected by the Act and Bylaw are appropriate for amendments. If the Commission determines that the proposed change would result in a project that is closer to resource areas, triggers new regulatory performance standards, meets such standards to a lesser degree, or that the interests specified in the Wetlands Protection Act or Bylaw are protected less, then the Commission shall not issue the amendment, but require the filing of a new Notice of Intent.
48. A certified arborist shall be hired by the Applicant to be on-site during construction of all retaining walls to insure protection of surrounding trees and shall report to the Commission any damage to trees that the certified arborist deems significant to the short term or long term health of the tree(s).
49. The Restoration Area of approximately 2,500 square feet shall be maintained in compliance with the "Invasive Species Management & Buffer Zone Restoration Planting Plan – 88 Coolidge Road, Arlington, MA", October 21, 2016, revised through July 24, 2017, by LEC of Worcester MA. The restoration area shall maintain a minimum of 75% coverage by native plants. Replacement plants shall be installed as needed due to mortality. Invasive species shall be removed. **This shall be a continuing condition that survives the expiration of the permit and shall be included in any Certificate of Compliance as a continuing condition.**
50. Any plantings and landscaping within the 100-foot Buffer Zone and AURA shall conform to the Invasive Species Management & Buffer Zone Restoration Planting Plan, and the following:
  - a. No plant materials shall be used of any species which appears on the Massachusetts Prohibited Plant list at <http://www.mass.gov/agr/farmproducts/prohibitedplantlist.htm>
  - b. Fertilizers, pesticides, or herbicides shall not be used within the Buffer Zone/AURA except as noted in (c) unless a specific need for treating a particular specimen or species has been demonstrated to the Commission, and permission has been granted.
  - c. Fertilizers may be used at the time of installation of any plant materials, and once more within a year after planting.
51. The "Invasive Species Management & Buffer Zone Restoration Planting Plan – 88 Coolidge Road, Arlington, MA", October 21, 2016, revised through July 24, 2017, by LEC of Worcester MA shall be recorded as an exhibit with this Order of Conditions and any Certificate of Compliance.

52. The restoration area and management of invasive species shall be monitored for a period of three years, with annual reports submitted to the Conservation Commission for each growing season no later than December 15 of each year. Invasive species shall continue to be removed during the monitoring period.
53. To prevent encroachment, signs reading “Conservation Area – Do Not Disturb” shall be installed and maintained along the edge of the restoration planting area in the locations shown on “Invasive Species Management & Buffer Zone Restoration Planting Plan – 88 Coolidge Road, Arlington, MA”, October 21, 2016, revised through July 24, 2017, by LEC of Worcester MA. **This shall be a continuing condition that survives the expiration of the permit and shall be included in any Certificate of Compliance as a continuing condition.**
54. Stormwater drainage systems shall be maintained in accordance with the “Operation and Maintenance Plan for Drainage Systems – Lot A Coolidge Road, Arlington, MA” dated June 3, 2016, revised through August 17, 2017. No components may be replaced without the permission of the Conservation Commission. **This shall be a continuing condition that survives the expiration of the permit and shall be included in any Certificate of Compliance as a continuing condition.**
55. Curb (such as “Cape Cod berm”) at driveway shall be maintained in perpetuity to minimize surface water flow from street entering property. **This shall be a continuing condition that survives the expiration of the permit and shall be included in any Certificate of Compliance as a continuing condition.**
56. Pervious surfaces shown on the project plans shall be maintained and not replaced by impervious surfaces. **This shall be a continuing condition that survives the expiration of the permit and shall be included in any Certificate of Compliance as a continuing condition.**